

## **REMARKS**

The specification and claims have been carefully reviewed in the light of the Office Action mailed October 4, 2007. Claims 1-11 and 13 were examined and rejected in this first Office Action on the merits. Applicants respectfully request that the Tomlinson, G. Published US Patent Application US 2002/022074 listed in the IDS be acknowledged (it may be found in the PAIR system by entering "2002-0022074" in the system required format).

New claim 15 has been introduced, support for which may be found in original claims 1,2,3,5, 6, and 11. Claims 1-6, 8, 11 and 13 have been cancelled, without prejudice. The water content of the cooking paste has been specified to be from 0 to 2% wt, thus clarifying the 'pasty' character of the cooking paste. Support can be found on page 7, lines 30-34 and page 14, lines 11-13 of the Specification. It is also noted in said part of the description that lower amounts of water are preferred as they give better microbiological stability to the product. Furthermore, it has been indicated in the new claim that the dressing contains from 15 to 35% wt fat. Support may be found on page 9, lines 26-29.

The remaining dependent claims 7, 9 and 10 have been amended to recite dependency on independent claim 15.

New claim 16 has been introduced, for which support may be found throughout the Specification and particularly page 4, lines 20-25; page 9, lines 30-33; page 14, lines 20-29.

Care has been taken not to introduce any new matter.

***Claim Objections and 35 U.S.C. 112 and 101***

The word "flavored" is used in new claim 15, so as to obviate the Examiner's objection to claim 1 in that connection.

Regarding the USC 112 rejections raised in the US Office Action, these have been rendered moot by the cancellation of the independent claim 1.

New claim 15 is absolutely clear that the claimed kit comprises a flavored cooking paste and a dressing as specified, and that said kit is used for preparing salads comprising a cooked ingredient and a fruit/vegetable/cereal product.

Claims 8 and 13 have been canceled.

***Claims 15, 7,9,10 and 16 Are Not Obvious under 35 U.S.C. 103***

The present invention set forth in claim 15 and its dependent claims, provides a kit for healthy, nutritious salad meals which have a controlled fat content (see page 2, lines 15-30). The kit is not obvious in view of the cited documents.

Claims 1-11 and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Tomlinson (US-2001/043972) in view of the combination of Errass et al (4,497,803) and Bams et al. (US4,650,690). Applicants respectfully traverse.

Applicants respectfully submit that Tomlinson is deficient as to at least the following claimed elements:

- (1) a kit for preparing salads and comprising at least one ingredient which is cooked during such preparation;
- (2) a cooking paste for flavoring cooked ingredient and a salad dressing for contacting with the other ingredient(s);
- (3) water content in the cooking paste;
- (4) total fat content of cooking paste and salad dressing combined;
- (5) ratio of cooking paste amount to salad dressing amount.

Tomlinson teaches away from the present invention to the extent that it is directed to a prepared and ready to eat salad, as opposed to a kit for preparing a salad meal according to the present invention and which includes at least one ingredient which is cooked during such preparation. The Office Action appears to indicate that Tomlinson teaches a combination of cooking paste and dressing. However, Tomlinson only mentions a list of "fluid ingredients" such as salad dressings, sauces, condiments and gravies (see paragraph [008]). Tomlinson does not describe a cooking paste and a salad dressing, nor a cooking paste with limited water content. One skilled in the art looking at Tomlinson would not find it predictable to provide the combination of cooking

paste and dressing according to present invention, nor the total fat content, nor the ratio of cooking paste amount to salad dressing amount. Tomlinson merely provides individually sized ready to eat packaged goods for "take away", such as a salad container that permits uniform dispersion on the food of a desired liquid such as a salad dressing, condiment, gravy or paste sauce contained therein (see paragraph [007]).

In addition, as mentioned in the Office Action Tomlinson is completely silent as to:

- (6) the fat content of the cooking paste and the salad dressing;
- (7) does not provide any indication/ suggestion of a way to control said fat content;
- (8) that the dressing is an oil-in-water emulsion. In this connection, Errass is cited by the examiner so as to prove that oil-in-water emulsions having a fat content of 10-50% were known at the time of the invention.

However, Errass does not contain any indication of the presence of a low-water cooking paste in combination with an oil-in-water emulsion disclosed therein. Furthermore, Errass is concerned with a clear salad dressing with oil which precludes the use of egg yolk as stabilizer and that various clear salad dressings suffer from the disadvantage that on standing an oil layer forms after a short time (see column 1, lines 19-34 of Errass). Consequently and given that Tomlinson teaches away from the present invention, when knowing the teachings of Tomlinson and Errass and faced with the problem of the present invention, a person skilled in the relevant art would not be inclined to combine those teaching, nor would they make the invention predictable. Furthermore, even if he would try and combine those teachings he would not arrive at the subject matter of present invention without exercising inventive skill, especially given that the combination is still deficient as to at least:

- (1) a kit for preparing salads;
- (2) a cooking paste for flavoring cooked ingredient and a salad dressing for contacting with the other ingredient(s);

- (3) water content in the cooking paste;
- (4) total fat content of cooking paste and salad dressing combined;
- (5) ratio of cooking paste amount to salad dressing amount;
- (6) the fat content of the cooking paste and the salad dressing;
- (7) controlling said fat content.

According to the Office Action, Bams et al ('690) discloses water-in-oil-in water emulsions that make cooking sauces. It appears Bams et al. is being cited for the cooking paste element of the present invention. However, Bams addresses providing a salad dressing having a firm consistency and sufficient stability in spite of a reduced lipid content. (see column 1, lines 5-22) . Also, Bams et al teaches away from the cooking paste element of present invention as it discloses emulsions having considerably more than 10%wt water (see the Examples and claims), whereas the cooking paste of the present invention contains less than 2% wt water. Besides, Bams et al is silent about a combination of cooking paste and dressing, and the combination of the 3 references is still deficient as to:

- (1) a kit for preparing salads;
- (3) cooking paste and water content in the cooking paste;
- (4) total fat content of cooking paste and salad dressing combined;
- (5) ratio of cooking paste amount to salad dressing amount.

Regarding the level of skill required and the fat content, as stated in the Specification at page 2, the requirements of an easy-to-prepare, nutritious, tasty and yet healthy salad meal has been found in practice to not be so simple to provide because to achieve the aforementioned requirement, the consumer will add a significant amount of oil. Furthermore, flavorings are often added in addition to the oils used for cooking and to the salad dressing and these flavorings may themselves contain oil. Salad meals with the stated requirements and which have a controlled fat content were not available prior to this invention. Example 1 in the Specification

provides a salad that had good taste, was quick and convenient to prepare, and did not feel or taste too oily.

Consequently, new claim 15 is not obvious over Tomlinson in view of Erass and Bams.

Selected original claims were rejected under 35 U.S.C. 103(a) in view of Ovofit Eiprodukte GmbH (DE-20008456) and/or Greisinger (DE-20104287). Applicants believe these rejections have been rendered moot with cancellation of independent claim 1. Nor do these references render obvious new independent claim 15 and its dependent claims. These documents do not provide any details of a kit containing a cooking paste and a salad dressing, nor about the fat content of these constituents of the kit. The Office Action further states that "it would be a matter of routine determination for one of ordinary skill in the art ...to add a sauce and/or dressing with the salad based on the desired fat content..." However, this is clearly hind sight reasoning since a kit with a cooking paste and a dressing would not be predictable to one skilled in the art and hence the new claim is not obvious over Ovofit Eiprodukte and/or over Greisinger (DE-20104287). None of the references alone or in combination disclose nor would make it obvious to one skilled in the art to provide kit having a paste for flavoring the cooked component such as meat and a salad dressing for the vegetable salad component.

## **CONCLUSION**

Reconsideration of the rejection is respectfully requested in view of the above claim amendments and remarks.

It is respectfully requested that the application be allowed to issue.

If a telephone conversation would be of assistance, Applicant's undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,

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